REMARKS

Claims 1-30 are presently pending in this application. Claim 1 has been amended. No new matter has been added. Favorable reconsideration and allowance of the pending claims are respectfully requested.

Allowable Subject Matter

Applicant thankfully acknowledges the indication that claims 13-30 are allowed over the prior art of record. Applicant notes that claims 6-9 were not rejected based on prior art.

35 U.S.C. § 112 Rejection

In the Office Action, claims 1-12 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant traverses the rejection based on the above amendment to independent claim 1. Applicant further submits that the amendment made to overcome the 35 U.S.C § 112, second paragraph, rejection should not be construed in a limiting manner. Accordingly, reconsideration and withdrawal the rejection of claims 1-12 under 35 U.S.C. § 112, second paragraph, are respectfully requested.

35 U.S.C. § 103 Rejection

In the Office Action, claims 1-5 and 10-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number 6,724,974 to Naruto et al. ("Naruto") in view of European Patent Publication EP0565180A2 to Sharpe

("Sharpe"). Applicant respectfully traverses the rejection and requests reconsideration and withdrawal of the § 103(a) rejection.

The Office Action alleges that "Naruto et al teach a digital recording apparatus (digital camera 200, figure 1) having a real-time clock (real-time clock 23, figure 1)." The Office Action correctly notes that "Naruto et al do not expressly teach the real-time clock of the digital recording apparatus being reset when the battery is removed, and the computer provided time and date reference being related to the digital recoding apparatus' real-time clock."

To remedy the admitted deficiencies of Naruto, the Office Action relies on the following teachings of Sharpe.

> In certain signal transmission systems such as selective call systems it is desired to stamp the date and time of the receipt of a call addressed to a receiver. For battery powered equipments such as radiopagers it is not practical to provide a clock because it will require resetting after each battery change. Fairly accurate times can be obtained by the system base station transmitting date and time message signals at regular intervals. However due to signal formatting delays and signal propagation delays, both of which are variable, the time indicated in a received time message signal is incorrect relative to real time. A radiopager includes a timing stage which is able to measure real time relative to a time reference. In order to obtain the best time reference, a comparison is made between the real time difference (Trn - Trref) between the times of receipt Trref, Trn of a current time reference signal and a more recently received time message signal Tsref, Tsn, and the time difference (Tsn - Tsref) between the times Tsref, Tsn indicated in the corresponding time message signals, and depending on the result either the time reference signal Tsref is confirmed as the current time reference signal or the more recently received time message signal is substituted as a new current time reference signal causing the real time clock to be reset so as to relate the real time to the new current time reference signal. *See* Abstract, page 1.

Applicant has amended independent claim1 in order to expedite prosecution on the merits. In particular, independent claim 1 has been amended to recite "a computer that reads media recorded by the digital recording apparatus and provides a date and time at which the media was recorded based on the digital recording apparatus's real-time clock."

In the Office Action, the system base station described in Sharpe formed a basis of the § 103(a) rejection. With respect to claim 1, Sharpe clearly fails to teach, among other things, a system base station that provides a date and time at which media was recorded based on a digital recording apparatus's real-time clock. For example, Sharpe states "the present invention simplifies the measurement of time by the determination of a time reference being made ***solely in the receiving apparatus***, there being no necessity for the central station having to transmit correction signals." *See* col. 2, lines 29-34 (emphasis added).

According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). *See* MPEP 706.02(j).

Even if Naruto could be combined with Sharpe, which Applicant does not admit, such combination fails to teach or suggest all of the features of independent claim 1 and thus is insufficient to establish a *prima facie* case of obviousness with respect to the claim. Moreover, Applicant submits that there is no motivation to combine the teaching of Naruto with Sharpe and that there is no reasonable expectation of success to make such combination.

For at least the reasons set forth above, Applicant submits that amended independent claim 1 is non-obvious and represents patentable subject matter in view of the cited references, whether taken alone or in combination. Applicant reminds the Examiner that if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

For at least the reasons set forth above, Applicant submits that independent claim 1 is allowable and that dependent claims 2-5 and 6-12 are allowable by virtue of their dependency from an allowable independent claim, as well as on their own merits.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection of claims 1-5 and 10-12.

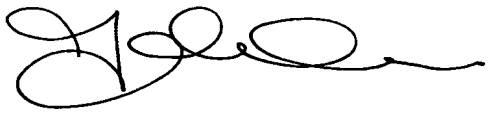
Applicant submits that the application is in condition for allowance. Favorable reconsideration and allowance of the pending claims are respectfully requested.

The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP



John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: January 6, 2005.

Deborah Higham — 1-6-2005
Deborah Higham Date

Dated: January 6, 2005

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[1] Without the benefit of the Office's reasoning as to the motivation to combine the cited references, Applicant is unable to analyze the merits of the Office's reasoning.